



The Arunachal Pradesh Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 426 Vol. XXXI, Naharlagun, Tuesday, November 19, 2024, Kartika 28, 1946 (Saka)

STATE ELECTION COMMISSION
ARUNACHAL PRADESH
ITANAGAR

ORDER

The 1st November, 2024

No. AP/SEC-661/2024/6630-37.—This order is to dispose of the two complaints forwarded by the Municipal Secretary, Pasighat Municipal Council pertaining to disqualification of the Councilors from their membership of Pasighat Municipal Council on their expulsion from their primary and active membership of the Bharatiya Janata Party (BJP) under the provisions of Section 3 of the Members of Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014.

The brief background of the case is as under :

- A. The Municipal Secretary, Pasighat Municipal Council vide its letter No. PMC/Elect-02/2015-16 dated **7th August 2024** has forwarded a copy of the letter dated **24th July, 2024** received from Shri Mirem Komut, President in-charge, East Siang District BJP Unit along with the termination/expulsion order dated **1st May, 2024** under signature of Shri Aku Borang, the District President, East Siang BJP Unit in respect of Shri Kaling Doruk, Councilor, Ward No. 03, Pasighat Municipal Council for 6 (six) years from the party's primary and active membership with immediate effect on the ground of his involvement in anti-party activities during the recently concluded Lok Sabha and Vidhan Sabha elections, 2024.
- B. The Municipal Secretary, Pasighat Municipal Council also on the same date vide its letter No. PMC/Elect-02/2015-16/84-86 dated **7th August, 2024** forwarded the copy of another letter received from Shri Kaling Tabing, President, Pasighat City BJP Unit along with the expulsion order dated **2nd August, 2024** issued by Shri Aku Borang, the District President, East Siang BJP unit in respect of (1) Smti Yalop Nyigang Yomso, Councilor, Ward No. 01, (2) Smti Rebeka Panyang Megu, Councilor, Ward No. 04 and (3) Smti Ponung Radeng Saring, Councilor, Ward No. 05 expelling them from the BJP for 6 (six) years with immediate effect on the ground of gross violation of the party discipline for disobeying instruction of the party not to move '**No Confidence Motion**' against the incumbent Chief Councilor of the same party.

The abovesaid two complaints were received separately, but were found of same nature of the same Municipal Council forwarded on the same date by the Municipal Secretary, Pasighat Municipal Council. Therefore, both the cases were taken up by the State Election Commission in its single proceeding together.

- A. **The brief facts leading to the case as at A above** in respect of Shri Kaling Doruk, Councilor, Ward No. 03 is that on **7th August, 2024** the Municipal Secretary, Pasighat Municipal Council (PMC) forwarded the expulsion /termination letter of Shri Kaling Doruk from Primary and Active membership of Bharatiya Janata Party (referred hereto as BJP for short) for consideration of disqualification of Shri Kaling Doruk, Councilor, Ward No. 03 under the provisions of "**the Members of Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014 (Act No.5 of 2014)**" to the State Election Commissioner which was received on **8th August, 2024**.
- (1) That the Pasighat Municipal Council (PMC) has 8 (eight) Councilors. On date **1st May, 2024**, the District President, East Siang Bharatiya Janata Party (BJP) Unit expelled /terminated Shri Kaling Doruk from Primary and Active membership of BJP under the provisions of the **Article XXV** of Bharatiya Janata Party (BJP) Constitution for anti-party activities during simultaneous election of Member of Parliament and Member of Legislative Assembly- 2024.
 - (2) Shri Mirem Komut, the President-in-charge, East Siang BJP Unit on **24th July, 2024** submitted the expulsion order of Shri Kaling Doruk from BJP to the Deputy Commissioner's office with a request to treat him as **Unattached Member**.
 - (3) The Deputy Commissioner forwarded the intimation of expulsion order to the Municipal Secretary, Pasighat Municipal Council on **1st August, 2024** but he received it on **3rd August, 2024**.
 - (4) The Municipal Secretary forwarded the expulsion order to the State Election Commission on **7th August, 2024** for initiating disqualification proceedings against the said Councilor.

I. Proceedings before the State Election Commissioner :-

- (1) The State Election Commissioner upon receipt of the intimation of expulsion order of Shri Kaling Doruk, issued notice to him on **26th August, 2024** for his appearance, defense evidence and fixed the date of hearing of the case on **6th September, 2024**.
- (2) That on **6th September, 2024** Shri Kaling Doruk was heard in person. His depositions were recorded and also received one written statement of defense.

Deposition of Defendant :

- (1) **Shri Kaling Doruk** : In his defense he denied of any anti party activity as he was ill during the general election 2024. He also submitted that :-
 - (i) he was not served with any show cause notice before his expulsion from BJP.
 - (ii) he came to know of the expulsion order dated **1st May, 2024** after he received the Notice from the State Election Commissioner.
 - (iii) the complaint was not forwarded to the State Election Commissioner by the Municipal Secretary within 3 days of receipt of the complaint as mandated by sub-section 3 of Section 5 of the Members of Arunachal Pradesh Urban Local Bodies (Disqualification on the Ground of Defection) Act, 2014. Therefore, the complaint application is found irregular.

Deposition of Complainants :

The State Election Commission also issued Notices to the Complainants on **18th September, 2024** and heard and recorded the Statements of all the three Complainants namely, (1) Shri Mirem Komut, President, in-charge, East Siang BJP Unit (2) Shri Kaling Tabing, President, Pasighat City BJP Unit and (3) Shri Aku Borang, the District President, East Siang BJP Unit on **1st October, 2024**.

- (1) **Shri Mirem Komut** who is the President in charge, East Siang District, BJP Unit stated that Shri Kaling Doruk instead of campaigning for the official BJP candidate in the general election, 2024 he campaigned for NPP candidate and therefore, he was expelled.

When asked as to whether he could substantiate his allegations of campaigning against party candidate by means of evidence, his answer was in negative.

On further query as to whether Shri Kaling Doruk was served with Show Cause Notice before his expulsion ?, he answered that he did not have any record of service of Show Cause Notice to Shri Kaling Doruk.

- (2) **Shri Aku Borang**, the Distt. President of East Siang BJP Unit, who signed the expulsion order stated that Shri Kaling Doruk was expelled on the basis of the report of Mandal President for not attending party meetings for more than 3 times consecutively.

On query as to whether Shri Kaling Doruk was served with Show Cause Notice before his expulsion ? He answered that he was not aware whether the Mandal President served the Show Cause Notice to Shri Kaling Doruk before his expulsion.

On further query as to why the expulsion order dated **1st May, 2024** was submitted to the Deputy Commissioner on **24th July, 2024** ? He answered that there must have been lapses on the part of the party to follow up for submission of the said order.

- (3) **Shri Kaling Tabing**, President, Pasighat City BJP Unit stated that he had nothing more to say beyond his written statement dated **2nd September, 2024**. In his statement dated **2nd September, 2024** there is no averment against Shri Kaling Doruk.

II. Issues that arose for consideration and its findings :

- (1) Whether Shri Kaling Daruk, Councilor had any justifiable ground to defend himself against his alleged involvement in anti-party activities and breach of party discipline during last election ?

Shri Kaling Doruk denied his involvement in anti-party activities and breach of Party discipline during last election as he remained confined to his house premises most of the time due to his ill-health being a heart patient and was undergoing treatment as per his various medical prescriptions produced and therefore it is found that his denial of anti-party activities is based on reasonable ground, unless it is proved by any prima facie evidences against him.

- (2) Whether the Complainant has any prima facie evidences to substantiate Shri Kaling Doruk's involvement in any form of anti-party activities and breach of party discipline during last election ?

The Complainant did not have any such prima facie evidence to produce against Shri Kaling Doruk. Hence, allegations of anti-party activities and breach of Party discipline could not be proved beyond doubt.

- (3) Whether codal formalities for expulsion of a Municipal Councilor elected on BJP ticket were followed as per Constitution and Rules of BJP ?

The expulsion order dated 1st May, 2024 issued to Shri Kaling Doruk was effected under the sub-clause for breach of discipline of Article XXV of BJP Constitution. The relevant portion of Article XXV : Disciplinary Action, is reproduced herein, Quote, "Clause - 6. No final decision for breach of discipline shall be taken against any individual or a unit without an opportunity of being given to the individual or unit concerned to explain and answer such charges as are made against it or him/her". Unquote. The BJP constitution is amply clear that before any action is taken against any member of BJP he or she should be accorded an opportunity of being heard. In the case in hand it is clear from the records and depositions of both the parties that Shri Kaling Doruk was neither issued show cause notice nor heard before his expulsion from primary member of BJP on 1st May, 2024. Therefore, his expulsion order dated 1st May, 2024 from Primary and Active member of BJP is held to be an ex-parte order.

4. Whether reasonable opportunity of being heard was provided to him to defend himself against the charges labelled against him before the expulsion order from BJP was issued ?

The principle of Natural Justice demands that an opportunity of being heard should be accorded before one is condemned. In the present case as revealed from the depositions of (1) Shri Mirem Komut , President-in-charge, East Siang District BJP Unit, (2) Shri Kaling Tabing, President, Pasighat City BJP Unit and (3) Shri Aku Borang, the Distt. President, East Siang BJP Unit, Pasighat, it can be safely concluded that Shri Kaling Doruk was neither issued show cause notice nor heard before his expulsion from BJP. He was condemned unheard. Therefore, the expulsion order dated 1st May, 2024 passed by the President District BJP Unit, Pasighat in respect of Shri Kaling Doruk was an ex-parte order which is improper and irregular.

5. Whether expulsion order dated 1st May, 2024 is maintainable in its present form ?

The expulsion order was passed on 1st May, 2024 but the same was not intimated to the Municipal Secretary (PMC); instead it was intimated to the Deputy Commissioner, Pasighat on 24th July, 2024 which is not the appropriate forum for this purpose. The Municipal Secretary office received the said intimation letter with forwarding from Deputy Commissioner on 3rd August, 2024 i.e after 94 days of expulsion of Shri Kaling Doruk. The sub-clause 5(1) of the Members of Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014, stipulates that expulsion order be made to Municipal Secretary within 90 (Ninety) days of the alleged date of defection. And Section-5 (2) empowered the Municipal Secretary to reject the complaint if filed after 90 days. Also, the complaint was not forwarded to the State Election Commission by the Municipal Secretary within 3 (three) days of receipt of the complaint as mandated by sub-section 3 of the Section 5 of the Members of the Arunachal Pradesh Urban Local Bodies (Disqualification on the Ground of Defection) Act, 2014. Hence, this mandatory provision was not followed. Also, the expulsion order dated 1st May, 2024 of Shri Kaling Doruk was intimated to the Deputy Commissioner only on 24th July, 2024 i.e. the day on which Shri Kaling Doruk along with others joined National Peoples' Party (NPP) and then to Indian National Congress Party (INC) on 25th July, 2024. As such the expulsion order dated 1st May, 2024 is not maintainable in its form.

6. Whether disqualification on the ground of defection under Section 3(1)(a) is applicable in case of Shri Kaling Doruk for his disqualification from Municipal Council on his expulsion from the BJP ?

Taking into account of all relevant records and proceedings of hearing of both the parties, it is found that Section 3 (1) (a) of disqualification on the ground of defection under the said Act is not attracted in the present case as because Shri Kaling Doruk neither gave up his membership of BJP nor could his activities/conducts be established as amounting to "voluntarily giving up his membership" from the party which set him up as candidate during last Municipal election.

- B. The brief facts leading to the case as at B above in respect of other three Councilors namely, (1) Smti Yalop Nyigang Yomso, Councilor, Ward No. 01, (2) Smti Rebeka Panyang Megu, Councilor, Ward No. 04, and (3) Smti Ponung Radeng Saring, Ward No. 05 are :

- (1) That the Pasighat Municipal Council (PMC) has 8(eight) Municipal Councilors. That on 10th July, 2024, 6 (six) Councilors namely, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu, (3) Smti Ponung Radeng Saring, (4) Smti Mumcy Dupak Lollen, (5) Shri Okeng Tayeng and (6) Shri Kaling Doruk submitted requisition to Municipal Executive Officer (MEO) , Pasighat Municipal Council for conduct of 'No Confidence Motion' against Chief Councilor, Smti Okiam Moyong.
- (2) That on 10th July, 2024, the MEO forwarded the Notice of motion for 'No Confidence Motion' against the Chief Councilor Smti Okiam Moyong to the Deputy Commissioner, Pasighat.
- (3) That on 12th July, 2024, Smti Okiam Moyong represented to DC, not to conduct 'No Confidence Motion' citing reasons.
- (4) That on 15th July, 2024, the District Magistrate issued notice of 'No Confidence Motion' against the Chief Councilor Smti Okiam Moyong, to be held on 25th July, 2024.

- (5) That on **24th July, 2024**, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu, (3) Smti Ponung Radeng Saring, (4) Smti Mumcy Dupak Lollen, (5) Shri Okeng Tayeng and (6) Shri Kaling Doruk joined with NPP. But the State President NPP did not accept their joining.
- (6) That on **24th July, 2024** pursuant to the notice of 'No Confidence Motion' issued by the District Magistrate dated **15th July, 2024**, President in-charge, East Siang BJP Unit called a party meeting at **5: 00 p.m.**
- (7) That on **24th July, 2024** BJP party issued WHIP to three Councilors namely, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring not to attend 'No Confidence Motion' on **25th July, 2024**.
- (8) That on **24th July, 2024** the Deputy Commissioner-Cum-District Magistrate Pasighat ordered deferring the special meeting scheduled on **25th July, 2024** till further instructions from the competent authority/Government.
- (9) That on **25th July, 2024**, the 6 Pasighat Municipal Councilors namely, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu, (3) Smti Ponung Radeng Saring, (4) Smti Mumcy Dupak Lollen, (5) Shri Okeng Tayeng and (6) Shri Kaling Doruk joined INC Party after rejection of their joining to NPP on **24th July, 2024**.
- (10) That on **2nd August, 2024**, the BJP expelled (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring for moving 'No Confidence Motion' despite of party instruction.
- (11) That on **7th August, 2024**, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu, (3) Smti Ponung Radeng Saring, (4) Smti Mumcy Dupak Lollen, (5) Shri Okeng Tayeng and (6) Shri Kaling Doruk intimated to the DC-Cum-DM about their joining to INC on **25th July, 2024**.
- (12) That on **7th August, 2024**, the BJP President, Pasighat City BJP Unit wrote to the Municipal Secretary Pasighat to disqualify (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring.
- (13) That on **7th August, 2024**, the Pasighat Municipal Secretary intimated the expulsion of Smti Yalop Nyigang Yomso, Smti Rebeka Panyang Megu and Smti Ponung Radeng Saring to the State Election Commissioner.
- (14) That on **26th August, 2024**, the State Election Commission issued Notice to (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu, and (3) Smti Ponung Radeng Saring for their appearance on **6th September, 2024**.
- (15) That on **2nd September, 2024**, Shri Kaling Tabing, President, Pasighat City BJP Unit intimated to SEC that their joining to INC Party is manufactured and fabricated one.
- (16) During intervening period, a Writ Petition bearing No. W.P(C) 284(AP)/2024 was filed before the Hon'ble Gauhati High Court by Smti Okiam Moyong Borang praying for stay of proceeding for 'No Confidence Motion'. The Hon'ble High Court declined the interim prayer for stay of 'No Confidence Motion' which was to be convened on **25th July, 2024**.
- (17) Another Writ Petition bearing No. W.P(C) 318 (AP)/2024 was also filed challenging the order of the Deputy Commissioner deferring the 'No Confidence Motion' which was to be convened on **25th July, 2024** but forwarded the same to the State Government for further orders. As of date there is no stay order from Hon'ble Gauhati High Court.
- (18) That on **7th August, 2024**, the Municipal Secretary, Pasighat Municipal Council (PMC) forwarded the expulsion order from primary and active membership of BJP of three Municipal Councilors namely, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring, with a request for disqualification of the councilors under the provisions of "**the Members of Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014 (Act No. 5 of 2014)**" to the State Election Commission.

I. Proceeding before State Election Commissioner :

- (1) That after receipt of the intimation letter from Municipal Secretary dated **7th July, 2024** of expulsion of (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring from BJP, the State Election Commission on **26th August, 2024** issued notice to three Councilors for appearance on **6th September, 2024** for their defense evidence and hearing.
- (2) That on the fixed date of **6th September, 2024** (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring were heard in person, their statements were recorded and also received a common written statement in their defense.

Deposition of Defendant :

All the three defendants/respondents namely, (1) Smti Yalop Nyigang Yomso, (2) Smti Rebeka Panyang Megu and (3) Smti Ponung Radeng Saring were in unison in submitting their respective deposition that they were aware of the order expelling them from the BJP on the charges of breach of party discipline for not obeying party direction not to move 'No Confidence Motion' against the incumbent Chief Councilor, Pasighat Municipal Council of the same party, but they denied having received actual expulsion order or Show Cause Notice to this effect. They further denied their involvement in the anti-party activities in the last Assembly and Parliamentary election as they were very much in the BJP even after election till recently when they joined the other political party. They also did not deny their moving 'No Confidence Motion' against the incumbent Chief Councilor of the same party as their grievances for change of Chief Councilor were not redressed by the Party authorities. They further submitted that they also did not attend the Party meeting called on **24th July, 2024** evening at Pasighat Siang Guest House as by then they had already decided and joined the NPP at around 3 PM/3:30 P.M and intimated to the DC-Cum-DM in the same evening accordingly.

Deposition of Complainants :

Notices were also issued to the complainants on **18th September, 2024** for their hearing. That on **1st October, 2024**, all the three complainants (1) Shri Mirem Komut, President-in-charge, East Siang District BJP Unit, (2) Shri Kaling Tabing, President, Pasighat City BJP Unit and (3) Shri Aku Borang, the Distt. President, East Siang BJP Unit, Pasighat were heard and recorded their statements.

- (1) Shri Mirem Komut who was the President in-charge, East Siang BJP Unit did not submit anything on the matter of expulsion of the said three Councilors from the BJP.
- (2) Shri Kaling Tabing, President, Pasighat City BJP Unit also did not state about the expulsion of the three Councilors but reiterated the disputes in his deposition that was submitted in the written intimation dated **2nd September, 2024** about the joining of the dissident Councilors to INC on **25th July, 2024** as manufactured and fabricated one and also raised the doubt on authenticity of the geotagged photograph of their joining to INC.

When asked, Shri Kaling Tabing submitted that he has no any evidence to this effect.

- (3) Shri Aku Borang, District President, East Siang BJP Unit stated that the three said Councilors were advised/directed not to move 'No Confidence Motion' against the incumbent Chief Councilor of the same party in two/three meetings but they were not convinced and did not comply with the direction. So, the State General Secretary issued Party Whips dated **24th July, 2024**, which was the basis of their expulsion from BJP by him.

He further submitted that these three Councilors on the same day i.e. **24th July, 2024** joined the NPP and finally to INC Party on **25th July, 2024** as they claimed ; whereas his submission was that they joined INC Party only after their expulsion from the BJP vide its order dated **2nd August, 2024** but intimated their joining to INC Party with back dated **25th July, 2024** to the DC-Cum-DM vide their letter on **7th August, 2024**.

When queried, he denied of having any kind of evidence as regard to his doubt of their joining to INC Party. He simply stated that as per their consultation with Computer Expert it was opined that the geotagging done with photograph was not actual but edited and pasted one.

Consequent to dispute raised by the complainants, the copy of the written intimation dated **2nd September, 2024** submitted by Shri Kaling Tabing and the copy of his statement by which he disputed their joining to INC Party on **25th July, 2024** as manufactured and fabricated were provided to the respondents with direction to submit written replies or appear in person for further hearing with production of the Camera/Mobile Set used for photographing their joining to INC Party corresponding to the copy of the said photograph enclosed alongwith written statement submitted by the respondents to State Election Commission on **6th September, 2024** (i.e. on the date of their hearing).

On **15th October, 2024**, a written reply was submitted from the Respondent's side and also one Mobile Set of Smti Ponung Radeng Saring, Councilor, one of the Respondents, was produced by her which was referred to the Technical Expert by the Board for the purpose of necessary verification and examination of its authenticity. Accordingly, the said Mobile Set was returned to her after its verification was over.

II. Issues that arose for consideration and its findings :

- (1) Whether Codal formalities of expulsion of an elected Municipal Councilor on BJP ticket was followed as per Constitution and Rules of Bharatiya Janata Party ?

The Constitution And Rules of Bharatiya Janata Party, in Article XXV : Disciplinary Action vide clause 6 states Quote, "No final decision for breach of discipline shall be taken against any individual or a unit without an opportunity being given to the individual or unit concerned to explain and answer such charges as are made against it or him/her" Unquote. This was not followed in respect of Party disciplinary proceedings.

- (2) Whether reasonable opportunity of being heard was provided to the said 3 (three) Councilors for their defense against the charges labeled by the Complainants ?

The principle of Natural Justice demands an opportunity of being heard before one is condemned. Records and depositions proved that Smti Yalop Nyigang Yomso, Smti Rebeka Panyang Megu and Smti Ponung Radeng Saring were not heard before their expulsion.

- (3) Whether joining of 6 (six) Councilors to INC on **25th July, 2024** was not actual but fabricated one ?

Shri Kaling Tabing, President, City BJP unit although disputed in his written statement and deposition, the joining of 6 (six) defected Councilors from BJP to INC on 25th July, 2024 as manufactured and fabricated, he did not dispute their joining to NPP on 24th July, 2024. Infact the defection happened on 24th July, 2024 itself technically. Further, he did not have any evidences to produce to substantiate his allegation of manufactured and fabricated joining of Councilors to INC Party.

However, to arrive at clarity and factual conclusion on the dispute of actual joining of 6 (six) defected Councilors from BJP to INC Party, report of the Board/Technical Expert as duly constituted for the purpose was relied upon and as per the expert opinion/finding, their joining to INC on **25th July, 2024** was actual/real one and not manufactured and fabricated as alleged. So allegation/dispute raised by both Shri Kaling Tabing, President, Pasighat City BJP unit and Shri Aku Borang, District President, East Siang BJP unit, proved baseless and unfounded.

Relevant Technical Report of physical verification of geotagged photograph is reproduced here with :

- “1. The image submitted was cross-checked over-

- (a) actual source Mobile(Samsung Galaxy S22 Ultra - details attached)
- (b) in the workstation (details attached) and
- (c) over Google earth platform (details attached)

for verification of various details like Mobile specification details ; image date and time, coordinates, etc.

2. *As per the details available and submitted and validated through cross verification, it has been observed that the properties of the image from source mobile and image submitted reveals actual”*

- (4) Whether the expulsion order dated **2nd August, 2024**, passed after 6 (six) out of total 8 (eight) members joined INC Party, is maintainable in its present form?

In the depositions of all the three councilors and their written statements it was stated that they actually joined INC Party on 25th July, 2024. This was corroborated by the report of the Technical Expert as referred above. Thus, the expulsion was after their joining INC Party. Therefore, the expulsion orders dated 2nd August, 2024 has become infructuous and redundant.

- (5) Whether the 3(three) Councilors, (1) Smti Yalop NyigangYomso, (2) Smti Rebeka Panyang Megu, and (3) Smti Ponung Radeng Saring are liable for disqualification for joining other political party i.e. INC Party ?

As a matter of fact, there are 8 (eight) Councilors in Pasighat Municipal Council in total and therefore 6(six) out of 8(eight) members constitute two-third majority. And in the present case, 6(six) Councilors have defected from the BJP and joined/merged with INC Party with two-third majority. Thus, their merger was valid and therefore disqualification of the said 3(three) Councilors under section 3 of the said Act is found not tenable under Section 4 of the said Act. The relevant provisions of Section 3 and 4 of the Members of Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014 is reproduced here under :

Section - 3 (1) “Subject to the provisions of Sections 4, a member of a Urban Local Body belonging to any political party shall be disqualified for being such a member :

- (a) If he has voluntarily given up his membership of such political party ; or”

Section - 4 (1) “A member shall not be disqualified under sub-section (1) of Section 3, where his political party merges with another party and he claims that he and any other members of his political party,-

- (a) have become members of such other political party, or as the case may be, of a new political party formed by such merger ; or
- (b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purpose of sub-section (1) of Section 3 and to be his political party for the purpose of this Section.

- (2) For the purposes of sub-section (1) of this Section the merger of the political party of a member shall be deemed to have taken place if, and only if, not less than **two-thirds** of the members of the political party concerned have agreed to such merger.”

ORDER

Now after careful examination and consideration of the material facts and findings emerged out of the proceedings and also having regards to the relevant provisions of the Arunachal Pradesh Urban Local Bodies (Disqualification on the Ground of Defection) Act, 2014 ; I am of the considered opinion that in the first case of Shri Kaling Doruk, Councilor, Ward No. 03, (a) a mere allegation of anti-party activities and breach of party discipline without any prima facie evidence does not attract provisions of Section 3 (1) (a) of the Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014 as the material evidence produced/submitted by the Complainants cannot be held as reliable and unequivocal to prove that Shri Kaling Doruk had attained disqualification under the said provisions of the Act. (b) that the impugned expulsion order and also the process of forwarding of such matter to the State Election Commission as mandated suffer from procedural lapses and non-compliance of the mandatory provision of limitation as prescribed under the Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014.

That in the second case of the other three Councilors namely, (1) Smti Yalop Nyigang Yomso, Ward No. 01 (2) Smti Rebeka Panyang Megu, Ward No. 04 and (3) Smti Ponung Radeng Saring, Ward No. 05 of Pasighat Municipal Council, the complaint for their disqualification from the Members of the Pasighat Municipal Council holds no ground as the said three Councilors along with other 3 (three) Councilors, namely, (1) Shri Oken Tayeng, (2) Smti Mumcy Dupak Lollen and (3) Shri Kaling Doruk had defected from their Party (BJP) and joined/merged with other political party i.e. INC Party with two-third majority before their expulsion from the Party to which they belonged (i.e. BJP). Thus their disqualification under Section 3 (1) is not tenable in terms of Section 4 of the Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014.

Now therefore, in terms of provisions of sub-section 4 of Section 5 of the Arunachal Pradesh Urban Local Bodies (Disqualification on Ground of Defection) Act, 2014, the two instant cases/complaints seeking disqualification of Shri Kaling Doruk, Councilor, Ward No. 03 and 3(three) other Councilors i.e. (1) Smti Yalop Nyigang Yomso, Ward No. 01, (2) Rebeka Panyang Megu, Ward No. 04, and (3) Smti Ponung Radeng Saring, Ward No. 05 from their membership of the Pasighat Municipal Council are hereby rejected and dismissed on the grounds as stated above respectively.

The 2 (two) Writ Petitions i.e. WP (C) No. 284 (AP)/2024 and WP (C) No. 318 (AP)/2024 on the matter of '**No Confidence Motion**' against the Chief Councilor of the Pasighat Municipal Council are in sisen of Hon'ble Gauhati High Court. But since the instant cases brought before the State Election Commission pertains to the matter of '**Disqualification of the Members**' from the Pasighat Municipal Council under the Arunachal Pradesh Urban Local Bodies, (Disqualification on Ground of Defection) Act, 2014, and also as there is no any litigation to this effect, the order as above is passed accordingly.

With the above common order, the two complaints of disqualification from the membership of Pasighat Municipal Council as forwarded by the Municipal Secretary, Pasighat Municipal Council vide its letter numbers PMC/Elect-02/2015-16 dated **7th August, 2024** in respect of Shri Kaling Doruk, Councilor, Ward No. 03 and letter No. PMC/Elect-02/2015-16/84-86 dated **7th August, 2024** in respect of other three Councilors i.e. (1) Smti Yalop Nyigang Yomso, Ward No. 01, (2) Smti Rebeka Panyang Megu, Ward No. 04 and (3) Smti Ponung Radeng Saring of Ward No. 05, Pasighat Municipal Council stand disposed of.

Given under my hand and seal of this Commission on this **1st day of November 2024**.

Rinchin Tashi, IAS (Retd.)
State Election Commissioner,
Arunachal Pradesh,
Itanagar.